

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PATRICK PIGNON

Appeal No. 1997-1015
Application No. 08/168,713¹

ON BRIEF

Before THOMAS, HAIRSTON, and DIXON, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-15 and 17, which are all of the claims pending in this application.

We REVERSE.

¹ Application for patent filed December 16, 1993.

BACKGROUND

The appellant's invention relates to a method for the processing of defective elements in a memory. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A method for replacing defective elements of a memory array further comprising redundant elements, the memory array having undergone a test for the detection of defective elements, wherein said method comprises the following steps:
 - a) for each defective element detected:
 - searching for a first non-defective redundant element which is unassigned by testing of the redundant elements which have not been assigned, and then
 - assigning this first non-defective redundant element to the defective element; and thereafter
 - b) after the assigning of a redundant element to each defective element has been achieved, replacing each defective element with the assigned redundant element.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Saito et al. (Saito)	4,860,260	Aug. 22, 1989
Choi et al. (Choi)	5,299,161	Mar. 29, 1994
		(Filed Nov. 18, 1991)

Claims 1 and 3-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over Saito. Claims 2 and 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Saito in view of Choi.

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Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's final rejection (Paper No. 6, mailed Jul. 18, 1995), the examiner's answer (Paper No. 12, mailed Jun. 13, 1996), the examiner's answer to the reply brief (Paper No. 15, mailed Aug. 08, 1996) and the examiner's letter (Paper No. 17, mailed Sep. 27, 1996) for the examiner's complete reasoning in support of the rejections, and to the appellant's brief (Paper No. 11, filed Mar. 20, 1996), reply brief (Paper No. 14, filed Jul. 17, 1996) and supplemental reply brief (Paper No. 16, filed Sep. 12, 1996) for the appellant's arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." *In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Appellant argues that the examiner has not

addressed the language of the invention as set forth in claims 1 and 13.² We agree with appellant. The examiner has addressed the language of the claims and their limitations in a general way rather than addressing the specific interrelation of the process steps. (See final rejection at pages 3-5 which is incorporated into the answer at page 4.) Here, the examiner addresses the individual steps and general functions being carried out by Saito. In the Response to argument section, the examiner addresses the arguments with respect to claim 23, which has been canceled by an amendment filed July 17, 1996.

Appellant argues that Saito does not teach or suggest the “SEQUENCE of steps” as set forth in the language of claim 1. (See brief at page 10.) We agree with appellant. Appellant further argues that:

[W]hile Saito uses a single method for testing the main memory and the spare memory, the primary embodiment of the present application applies two different methods for testing the main memory and the spare memory, in order to improve the time needed to test and repair the memory. This inventive method is different from that of Saito, and gives a corresponding advantage in speed.

See brief at page 12. (Emphasis in original.) We agree with appellant.

The examiner addresses claim 1 in the examiner’s answer in response to the reply brief. Here, the examiner states that “[c]laim 1 can be interpreted as describing the

² While we agree that the examiner has not addressed the limitation in claim 13 pertaining to “repeatedly,” we note that appellant has neither presented support for this limitation in the specification as originally filed nor explained the limitation as it relates to the disclosed invention or prior art. We question whether appellant intends to repeatedly search and assign redundant elements even after the first non-defective element is located wherein all elements are retested in the sequence which were previously assigned. Or, does appellant intend a different interpretation?

testing of all of the redundant elements (unassigned) prior to the search for a non-defective redundant element.” (See examiner’s answer in response to the reply brief at page 3.)

We disagree with the examiner. The language of the claim states that “for each defective element detected: searching for a first non-defective redundant element which is unassigned by testing of the redundant elements which have not been assigned.”

(Emphasis added.) Therefore, the examiner’s interpretation of this limitation is unreasonable in view of the fact that for each defective element, testing of redundant elements is carried out. The examiner’s interpretation would equate the language of the claim to the complete testing of the redundant elements prior to any search. For the examiner’s interpretation, the language of the claim would have to recite “searching . . . tested redundant elements” rather than “searching . . . by testing” as set forth in the claim. This interpretation is contrary to the clear language of claim 1. Therefore, we will not sustain the rejection of claim 1 and its dependent claims over Saito alone.

Claim 13 includes a similar claim limitation that for each defective element, a search is performed “by testing the redundant elements.” Therefore, we will not sustain the rejection of claim 13 and its dependent claims over Saito alone.

With respect to claims 2 and 17, Choi is added by the examiner, but the examiner has not identified any teaching in Choi which remedy the above deficiency in Saito. Therefore, we will not sustain the rejection of claims 2 and 17.

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CONCLUSION

To summarize, the decision of the examiner to reject claims 1-15 and 17 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS
Administrative Patent Judge

KENNETH W. HAIRSTON
Administrative Patent Judge

JOSEPH L. DIXON
Administrative Patent Judge

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